REMARKS

This application has been reviewed in light of the Office Action dated September 6, 2005. Claims 12-43 are pending. Claims 41, 42 and 43 have been amended to define still more clearly what Applicants regard as their invention. Claims 12, 22, 23, 33 and 34 are in independent form. Favorable reconsideration is requested.

Page 2 of the Office Action states that certified copies of the Japanese priority applications need to be filed in the present application. Copies of those priority applications (10-253037, 11-048134, 11-047805, and 11-247930) are submitted herewith. Acknowledgment of their receipt is requested.[1]

The Office Action rejected Claims 41-43 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement, for the reasons given in section 3 of the Office Action.

Without conceding the propriety to this rejection, those claims have been amended to even further clarify the claimed subject matter.

The Examiner is respectfully requested to note that a heater 20 in Figs. 1 and 4 controls the temperature in the vessel. The heater 20 may be replaced by cooling means (page 22, lines 20-22 of the specification). Further, Fig. 14 shows a heater 212 and cooling unit 213 for temperature controlling in a forming and activation process (page 36,

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1/ It also is noted that certified copies were filed in the Patent and Trademark Office in the parent application on June 6, 2001. If the Examiner would like a copy of the return receipt postcard evidencing the receipt of those documents by the Patent and Trademark Office, such will gladly be supplied upon request.

lines 1-9 of the specification). Further, Examples 6, 7, 11 and 17 set forth in the specification describe that the first atmosphere (forming processing) and the second atmosphere (activation processing) include temperature control (heating and cooling).[2]

It is believed that one skilled in the art would clearly appreciate in view of the foregoing portions of the application that Claims 41-43 comply fully with the requirements of Section 112, first paragraph. Accordingly, reconsideration and withdrawal of that rejection is respectfully requested.

Claims 12-21 have been rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-10 and 30 of U.S. Patent 6,848,961, Claims 22-43 have been rejected under the judicially created doctrine of obvious-type double patenting as being unpatentable over claims 1-10 and 30 of U.S. Patent No. 6,848,961 in view of U.S. Patent No. 5,591,061 (*Ikeda* '061), and Claims 12-17, 19, 22, 24-28, and 30 have been rejected under the judicially created doctrine of obvious-type double patenting as being unpatentable over claims 13-29 of U.S. Patent No. 6,846,213. Claims 20, 21, 23, 31-39 and 41-43 have been rejected under the judicially created doctrine of obvious-type double patenting as being unpatentable over claims 13-29 of U.S. Patent No. 6,846,213 in view of *Ikeda* '061, Claims 18 and 29 have been rejected under the judicially created doctrine of obvious-type double patenting as being unpatentable over claims 13-29 of U.S. Patent No. 6,846,213 and further in view of U.S.

2/ Of course, the portions of the application referred to above are merely identified for illustration purposes only, and are not intended to limit the scope of the claimed invention only to the embodiments referred to therein.

Patent No. 5,886,864 (*Dvorsky* '864), and Claim 40 has been rejected under the judicially created doctrine of obvious-type double patenting as being unpatentable over claims 13-29 of U.S. Patent No. 6,846,213 in view of *Ikeda* '061.

Various claims also were provisionally rejected for obviousness-type double patenting over the various references cited in section 7 of the Office Action. For example, Claims 12-14, 19-25, 30-36, and 41-43 have been provisionally rejected under the judicially created doctrine of obvious-type double patenting as being unpatentable over claim 1 of U.S. Application No.10/913,542 in view of *Ikeda* '061, and Claims 15, 17, 18, 26, 28, 29, 37, 39, and 40 have been rejected under the judicially created doctrine of obvious-type double patenting as being unpatentable over claim 1 of U.S. Application No. 10/913,542 in view of *Ikeda* '061 and *Dvorsky* '864. Also, Claims 15, 16, 26, 27, 37, and 38 have been provisionally rejected under the judicially created doctrine of obvious-type double patenting as being unpatentable over claim 1 of U.S. Application No. 10/913,542 in view of *Ikeda* '061 and *Okunuki* '552.

It is strongly believed that the presently pending claims are patentable over the art relied on in the Office Action for the reasons set forth in the Remarks section of the Amendment filed on June 30, 2005. Those reasons are repeated and incorporated by reference herein.

Moreover, to the extent that the double-patenting rejections over the respective U.S. Patent Nos. 6,848,961 and 6,846,213 and U.S. Application No.10/913,542 are based merely on the assertion that the present application and those references have

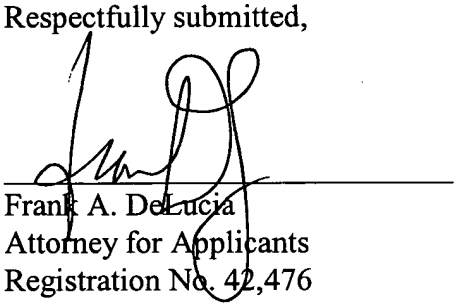
common disclosure, the rejections are believed to be improper. As set out in MPEP § 804, the basis for double-patenting rejections where the rejected claim is not identical in scope to a claim in the patent or application, is that the rejection is necessary to prevent improper *time-wise* extension of patent protection. Since the present application is entitled to an earliest effective filing date that is earlier than the respective filing dates of U.S. Patent No. 6,848,961, U.S. Patent No. 6,846,213, and U.S. Application No.10/913,542, the mentioned patents and any patent granted on U.S. Application No.10/913,542 will expire later than any patent issued on the present application. Thus, it is not seen how there can be any improper time-wise extension involving the present application vis-a-vis U.S. Patent Nos. 6,848,961 and 6,846,213 and U.S. Application No.10/913,542. Accordingly, for this reason as well, the double patenting rejection is respectfully traversed, and its reconsideration and withdrawal are respectfully requested.

This Amendment is believed clearly to place this application in condition for allowance and its entry is therefore believed proper under 37 C.F.R. § 1.116. At the very least, it is believed that the formal rejection has been overcome. In any event, however, entry of this Amendment After Final Rejection, as an earnest effort to advance prosecution and reduce the number of issues, is respectfully requested. Should the Examiner believe that issues remain outstanding, he is respectfully requested to contact Applicants' undersigned attorney in an effort to resolve such issues and advance the case to issue.

In view of the foregoing amendments and remarks, Applicants respectfully request favorable reconsideration and early passage to issue of the present application.

Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,



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